

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064

TELEPHONE (212) 373-3000

LLOYD K GARRISON (1946-1991)
RANDOLPH E PAUL (1946-1956)
SIMON H RIFKIND (1950-1995)
LOUIS S WEISS (1927-1950)
JOHN F WHARTON (1927-1977)

UNIT 3601, OFFICE TOWER A, BEIJING FORTUNE PLAZA
NO 7 DONGSANHUA ZHONGLU
CHAOYANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828 6300

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU U K
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE
77 KING STREET WEST SUITE 3100
PO BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-0520

2001 K STREET, NW
WASHINGTON DC 20006-1047
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410

MATTHEW W ABBOTT
ALLAN J ARFFA
ROBERT A ATKINS
DAVID J BALL
JOHN F BAUGHMAN
LYNN B BAYARD
DANIEL J BELLER
CRAIG J BERNIN
MITCHELL L BERG
MARK S BERGMAN
BRUCE BIRENBOIM
H CHRISTOPHER BOEHNING
ANGELO BONVINO
JAMES L BROCHIN
RICHARD J BRONSTEIN
DAVID W BROWN
SUSANNA M BUERGEL
PATRICK S CAMPBELL*
JESSICA S CAREY
JEANETTE K CHAN
YVONNE Y F CHAN
LEWIS R CLAYTON
JAY COHEN
KELLEY A CORNISH
CHRISTOPHER J CUMMINGS
CHARLES E DAVIDOW
DOUGLAS R DAVIS
THOMAS V DE LA BASTIDE III
ARIEL J DECKELBAUM
ALLICE BELISLE EATON
ANDREW J EHRLICH
GREGORY A EZRING
LESLIE GORDON FAGEN
MARC FALCONE
ROSS A FIELDSTON
ANDREW C FINCH
BRAD J FINKELSTEIN
BRIAN P FINNEGAN
ROBERTO FINZI
PETER E FISCH
ROBERT C FLEDER
MARTIN FLUMENBAUM
ANDREW J FOLEY
HARRIS B FREIDUS
MANUEL S FREY
ANDREW L GAINES
KENNETH A GALLO
MICHAEL E GERTZMAN
ADAM M GIVERTZ
SALVATORE GOGLIORMELLA
ROBERT D GOLDBAUM
NEIL GOLDMAN
ERIC GOODISON
CHARLES H GOODE, JR
ANDREW G GORDON
UDI GROFMAN
NICHOLAS GROOMBRIDGE
BRUCE A GUTENPLAN
GAINES GWATHMEY, III
ALAN S HALPERIN
JUSTIN G HAMER
CLAUDIA HAMMERMAN
GERARD E HARPER
BRIAN S HERMANN
ROBERT M HIRSH
MICHELE HIRSHMAN
MICHAEL S HONG
DAVID S HUNTINGTON
LORETTA A IPPOLITO
JAREN JANGHORANI
MEREDITH J KANE
ROBERTA A KAPLAN

BRAD S KARP
PATRICK N KARSNITZ
JOHN C KENNEDY
BRIAN KIM
ALAN W KORNBERG
DANIEL J KRAMER
DAVID K LAKHDHIR
STEPHEN P LAMB*
JOHN E LANGE
DANIEL J LEFFELL
XIAOYU GREG LIU
JEFFREY D MARELL
MARCO V MASOTTI
EDWIN S MAYNARD
DAVID W MAYO
ELIZABETH R MCCOLM
MARK F MENDELSON
WILLIAM B MICHAEL
TOBY S MYERSON
CATHERINE NYARADY
JANE B O'BRIEN
ALEX YOUNG K OH
BRAD R OKUN
KELLEY D PARKER
MARC E PERLMUTTER
CHARLIE E RADWANER
CARL L REISNER
LORIN L REISNER
WALTER G RICCIARDI
WALTER RIEMAN
RICHARD A ROSEN
ANDREW N ROSENBERG
JACQUELINE P RUBIN
RAPHAEL M RUSSO
ELIZABETH M SACKSTEDER
JEFFREY D SAFERSTEIN
JEFFREY B SAMUELS
DALE M SARRO
TERRY E SCHIMEK
KENNETH M SCHNEIDER
ROBERT B SCHUMER
JAMES H SCHWAB
JOHN M SCOTT
STEPHEN J SHIMSHAK
DAVID R SICULAR
MOSES SILVERMAN
STEVEN SIMKIN
JOSEPH J SIMONS
MARILYN SOBEL
AUDRA J SOLOWAY
SCOTT M SONTAG
TARUN M STEWART
ERIC ALAN STONE
AIDAN SYNNOTT
ROBYN F TARNOFSKY
MONICA K THURMOND
DANIEL J TOAL
LIZA M VELAZQUEZ
MARIA T VULLO
ALEXANDRA M WALSH*
LAWRENCE G WEE
THEODORE V WELLS JR
BETH A WILKINSON
STEVEN J WILLIAMS
LAWRENCE I WITDORCHIC
MARK B WLAZLO
JULIA MASON WOOD
JORDAN E YARETT
KAYE N YOSHINO
TONG YU
TRACEY A ZACCONE
T ROBERT ZOCHOWSKI, JR

*NOT ADMITTED TO THE NEW YORK BAR

WRITER S DIRECT DIAL NUMBER

(212) 373-3166

WRITER S DIRECT FACSIMILE

(212) 492-0166

WRITER'S DIRECT E MAIL ADDRESS

aehrlich@paulweiss.com

August 27, 2014

By ECF and Hand Delivery

The Honorable Thomas P. Griesa
Daniel Patrick Moynihan United States Courthouse
Southern District of New York
500 Pearl Street
New York, NY 10007

Allianz Risk Transfer Ag, et al. v. Paramount Pictures Corp.,
No. 1:08-CV-10420 (TPG)

Dear Judge Griesa:

This firm represents defendant Paramount Pictures Corporation ("Paramount") in the above matter. We write to address the Rule 37 motion plaintiffs filed this past Monday, seeking to preclude the use of certain documents and the testimony of Paramount's damages expert, Robert Wunderlich. We respectfully request that the motion immediately be stricken for violating the Court's prior directive at our May 19, 2014 status conference, as well as Local Civil Rule 37.2. In the alternative, we request a pre-motion conference—as plaintiffs should have done—to discuss the motion and set a reasonable briefing schedule, should that prove necessary.

We believe the motion is replete with gross factual misstatements, and, as our anticipated opposition would show, is entirely without merit. We believe, however, that because plaintiffs' motion violates the Court's prior directive to plaintiffs denying their request to file this exact Rule 37 motion, the motion should be stricken.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

The Honorable Thomas P. Griesa

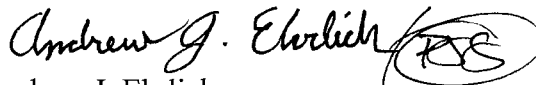
2

By way of background, as Your Honor may recall, on May 19, 2014, the parties attended a conference before Your Honor to resolve a scheduling dispute between the parties concerning summary judgment briefing (which motion is now fully briefed and *sub judice*). At the conference, plaintiffs' counsel, Mr. Janowitz, also requested leave to file a Rule 37 motion concerning discovery supposedly withheld by Paramount and the rebuttal expert report of Mr. Wunderlich related thereto. The Court denied plaintiffs' request and informed plaintiffs that they should *not* file any further motions on this topic. Since that time, plaintiffs have never sought permission from the Court to file such a motion. Instead, without permission, plaintiffs filed their motion this past Monday.¹

In doing so, plaintiffs not only ignored this Court's directive, but also blatantly violated Local Civil Rule 37.2, which requires counsel to request an informal conference with the Court by letter before filing any Rule 37 motion. On this basis alone, plaintiffs' motion should be denied. *E.g.*, *Reed v. Delta Airlines, Inc.*, 10 CIV. 1053 JGK, 2011 WL 1085338, at *6-7 (S.D.N.Y. Mar. 23, 2011); *Forsythe v. Local, 32BJ, SEIU*, 10 CIV. 8557 NRB, 2011 WL 2652395, at *5 (S.D.N.Y. June 23, 2011).

For all of the above reasons, we believe plaintiffs' Rule 37 motion is improper, and thus respectfully request that the motion immediately be stricken or denied. Or, at a minimum, we respectfully request a conference as soon as possible to discuss the pending motion and briefing schedule—as plaintiffs should have done—since the potential deadline for opposing plaintiffs' improper motion falls immediately after Labor Day weekend, on September 2nd. We are available to meet at the Court's convenience.

Respectfully,

A handwritten signature in black ink, reading "Andrew J. Ehrlich", followed by a circled set of initials "RS".

Andrew J. Ehrlich

Enclosure

cc: All counsel of record (by ECF and email)

¹ At plaintiffs' request, enclosed please find a letter that we received from them today.



PRYOR CASHMAN LLP

7 Times Square, New York, NY 10036-6569 Tel: 212-421-4100 Fax: 212-326-0806

New York | Los Angeles

www.pryorcashman.com

Bryan T. Mohler
Attorney at Law

Direct Tel: (212) 326-0466
Direct Fax: (212) 798-6907
bmohler@pryorcashman.com

August 27, 2014

BY EMAIL

Andrew J. Ehrlich, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064

Re: *Allianz Risk Transfer AG, et al. v. Paramount Pictures Corp.,*
No. 1:08-CV-10420 (TPG)

Dear Andrew:

We are in receipt of your letter of last evening, concerning Plaintiffs' recently-filed Fed. R. Civ. P. 37 and Fed. R. Evid. 702 motion.

While we intend to respond to your letter as soon as possible today, Jim Janowitz is out of the office this week on vacation, with limited availability. Therefore, we will not be able to respond to your letter by Noon. When you submit your letter to the Court at Noon, please include a copy of this letter.

Very truly yours,

Bryan T. Mohler

cc: Leslie G. Fagen
Allan J. Arffa
Richard B. Kendall
Phil M. Kelly
Patrick J. Somers
James A. Janowitz
William L. Charron
(all via email attachment)